OFFICE

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

Amended as per C.O. dt. 4.3.05

W. P. NO. 3396 OF 2003

PETITIONER

Raipur Development Authority ~~Nagar Palika Nigam~~, Raipur Through its ~~Commissioner~~ Chief Executive ~~Nagar Palika Nigam, Raipur~~, Officer ~~Raipur [Chhattisgarh]~~

VERSUS

RESPONDENT

M/s Sarin Construction Company, Raipur through Shri Ashok Sarin, S/o Late Chamanlal Sarin, Sector-3, Devendra Nagar, Raipur Chhattisgarh.

P. R. No. 2964/03
Presented by Shri K.K. RAI Per S.N.S.
dated 16.09.03

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

XI-HC-22

(60)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.3396/ **सन्** 2003

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	4-3-2005 Mr. K.N. Agarwal with Mr. Ashish Shrivastava, counsel for the petitioner. Mr. Sunil Otwani, counsel for the respondent. Heard on I.A.No.1066/2005, application for substitution of the Raipur Development Authority in place of the petitioner herein as after filing of this petition, vide notification dated 4th September, 2004, Chhattisgarh Rajpatra (Extraordinary), the Raipur Development Authority has again been reconstituted. Therefore, in view of the reasons mentioned in the application, it is allowed. Counsel for the petitioner to incorporate the amendment in the petition itself. Also heard on I.A.No.1497/2005. By this application, the petitioner seeks to add paras 5.6 (A) and 5.6 (B) regarding filing of application under Section 34 of the Arbitration and Conciliation Act, 1996, to which learned counsel for the respondent has no objection. Therefore, this application is also allowed. Counsel for the petitioner to carryout the amendment. Also heard learned counsel for the parties on the merits of the case. The petitioner has preferred this writ petition being aggrieved by the order dated 31st July, 2003, passed by the 6th Additional District Judge, Raipur, in C.S.No.41-B/2002, whereby the learned Additional District Judge while deciding the application of the respondent herein filed under Section 151 of the C.P.C. ordered that the issues can be decided without recording the evidence of the parties.	

XI-HC-22

(61)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.33961 **सन्** 2013

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned counsel for the petitioner submitted that the request of the respondent herein was that all the issues be decided together. There was no request ~~made~~ by the respondent herein that the other issues can be decided without the evidence. Therefore, the impugned order was passed by the learned Additional District Judge without any prayer by the respondent herein. Learned counsel argued that the perusal of issues Annexure P-3 would show that at least issue Nos.5, 6 (अ) & 6 (ब) require to be proved by the evidence adduced by the parties.

On the other land, learned counsel for the respondent argued that only in respect of issue Nos.6 (अ) & 6 (ब), evidence is required and no evidence is required for deciding issue No.5.

Therefore, as agreed by both the counsel, issue Nos.6 (अ) & 6 (ब) to a certain extent involve the factual aspects, as such, the evidence is required to be adduced by the parties in order to decide these two issues. As far as issue No.5 is concerned, in my opinion, for this issue no oral evidence is required ~~to be adduced~~. This issue can be decided based on the relevant documents on the file of the arbitration proceedings. The learned Additional District Judge for that purpose can call for the record of the arbitration proceedings and based on that record, counsel for the parties can argue on the point whether the petitioner herein was given the opportunity to cross-examine the witnesses or not. As far as issue No.3 is concerned, that can be decided on the basis of interpretation of clause 29 for which no oral evidence is required.

Therefore, in view of the above, the order impugned is set aside and the learned Additional District Judge is directed to allow the parties to adduce ~~their evidence on issue Nos.6 (अ) & 6 (ब) and for other issues as mentioned~~

(पीछे देखिये)

XI-HC-22

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.3396/ **सन्** 2005

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

above i.e. issue Nos.3 & 5 record of the arbitration proceedings can be requisitioned and those issues can be decided based on the record. The learned Additional District Judge is directed to expedite the proceedings and decide the matter as early as possible.

With the above observations and directions, the writ petition is disposed of.

Consequentiy, M.(W.)P.No.2376/2004 stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C.BHADOO
Judge

Soma